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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,163	08/28/2004	Allan Kettlehut	Redbinding	5162
23217	7590	05/18/2007		
GLENN L. WEBB			EXAMINER	
P.O BOX 951			MOHANDESI, JILA M	
CONIFER, CO 80433				
			ART UNIT	PAPER NUMBER
			3728	
			MAIL DATE	DELIVERY MODE
			05/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,163	<b>Applicant(s)</b> KETTLEHUT, ALLAN	
	<b>Examiner</b> Jila M. Mohandesi	<b>Art Unit</b> 3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because solid black shading not permitted as per 37 CFR 1.84(m). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1, 6-8, 10 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Emerson (US 5,918,387). Emerson discloses an adjustable binding for a snowshoe, said binding comprising: a forefoot member (front harness shell 28); a pivotable mechanism (flexible bands 18) for attaching said forefoot member to said snowshoe so that said fore foot member pivots relative to said snowshoe; a heel plate (base plate 20); a rear foot member (rear harness shell 30) attached to said heel plate; and strap (40) member attached to said fore foot member and said rear foot member.

See Figure 1 embodiment.

4. Claims 19 are rejected under 35 U.S.C. 102(b) as being anticipated by McManus et al. (US 2002/0017771). McManus discloses a snowshoe comprising a translucent decking extending at least along the upper surface of said snowshoe. See paragraph [0288] and figures 46-46A.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. Claims 2-3 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emerson in view of Howell (US 5,259,128). Emerson as described above discloses all the limitations of the claims except for the pivotable mechanism including a rod extending through said forefoot member and a first strap attaching one end of said rod to said snowshoe and a second strap attaching the opposing end of said rod to said snowshoe. Howell discloses an adjustable snowshoe where the pivotable mechanism includes a rod extending through the forefoot member and a first strap attaching one end of said rod to said snowshoe and a second strap attaching the opposing end of said rod to said snowshoe, see figure 4 embodiment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the pivotable mechanism of Emerson as a rod connected with straps as taught by Howell since they are art recognizable equivalents.
8. Claims 9 and 18-20 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emerson in view of McManus. Emerson as described above discloses all the limitations of the claims except for the snowshoe having a translucent decking. McManus teaches that it is desirable to make snowshoes translucent. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the snowshoe of Emerson translucent as taught by McManus to make the snowshoe more pleasing to the consumer. Furthermore, it has been held to be within the general skill of a worker in the art to select a known material

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on the basis of its suitability for the intended use as a matter of obvious design choice.

In re Leshin, 125 USPQ 416.

9. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emerson-McManus as applied to claims 9 and 18-20 and 24-25 above and further in view of Howell (US 5,259,128). Emerson as modified above discloses all the limitations of the claims except for the pivotable mechanism including a rod extending through said forefoot member and a first strap attaching one end of said rod to said snowshoe and a second strap attaching the opposing end of said rod to said snowshoe. Howell discloses an adjustable snowshoe where the pivotable mechanism includes a rod extending through the forefoot member and a first strap attaching one end of said rod to said snowshoe and a second strap attaching the opposing end of said rod to said snowshoe, see figure 4 embodiment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the pivotable mechanism of Emerson as a rod connected with straps as taught by Howell since they are art recognizable equivalents.

10. Claims 4-5 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emerson in view of Warner (US 5,901,471). Emerson as described above discloses all the limitations of the claims except for the heel plate having a tail portion slidably mounted in a slot of a mounting mechanism to allow the snowshoe to accommodated different sizes of footwear. Warner discloses a snowshoe with a heel plate having a tail portion slidably mounted in a slot of a mounting mechanism to allow the snowshoe to accommodated different sizes of footwear, see figure 3 embodiment.



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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the heel plate of Emerson with a tail portion slidably mounted in a slot of a mounting mechanism as taught by Warner to allow the snowshoe to accommodated different sizes of footwear.

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Emerson-McManus as applied to claim 19 above and further in view of Warner (US 5,901,471). Emerson as modified above discloses all the limitations of the claims except for the heel plate having a tail portion slidably mounted in a slot of a mounting mechanism to allow the snowshoe to accommodated different sizes of footwear. Warner discloses a snowshoe with a heel plate having a tail portion slidably mounted in a slot of a mounting mechanism to allow the snowshoe to accommodated different sizes of footwear, see figure3 embodiment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the heel plate of Emerson with a tail portion slidably mounted in a slot of a mounting mechanism as taught by Warner to allow the snowshoe to accommodated different sizes of footwear.

### ***Conclusion***

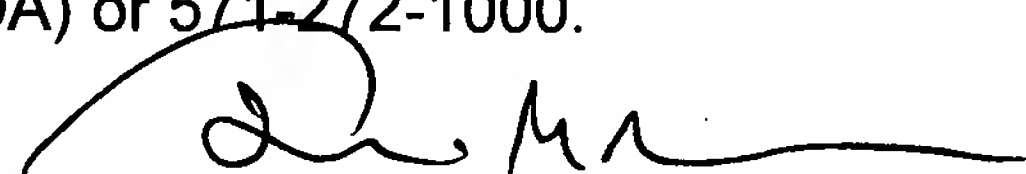
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are snowshoe analogous to applicant's instant invention.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
May 10, 2007